Fact sheet

Fiscal Year (FY) 2023 Skilled Nursing Facility Prospective Payment System Proposed Rule (CMS 1765-P)

Apr 11, 2022 Billing & payments, Nursing facilities, Policy

On April 11, 2022, the Centers for Medicare & Medicaid Services (CMS) issued a proposed rule that would update Medicare payment policies and rates for skilled nursing facilities under the Skilled Nursing Facility Prospective Payment System (SNF PPS) for fiscal year (FY) 2023. In addition, the proposed rule includes proposals for the SNF Quality Reporting Program (QRP) and the SNF Value-Based Program (VBP) for FY 2023 and future years. CMS is publishing this proposed rule consistent with the legal requirements to update Medicare payment policies for nursing homes on an annual basis. This fact sheet discusses the major provisions of the proposed rule.

FY 2023 Proposed Updates to the SNF Payment Rates

CMS estimates that the aggregate impact of the payment policies in this proposed rule would result in a decrease of approximately $320 million in Medicare Part A payments to SNFs in FY 2023 compared to FY 2022. This estimate reflects a $1.4 billion increase from the 3.9% update to the payment rates, which is based on a 2.8% SNF market basket update plus a 1.5 percentage point market basket forecast error adjustment and less a 0.4 percentage point productivity adjustment, as well as a negative 4.6% or $1.7 billion decrease in the SNF PPS rates as a result of the proposed recalibrated parity adjustment. These impact figures do not incorporate the SNF VBP reductions for certain SNFs that are estimated to be $186 million in FY 2023.

Proposed Recalibration of the PDPM Parity Adjustment

On October 1, 2019, CMS implemented a new case-mix classification model, called the Patient Driven Payment Model (PDPM) under the SNF PPS. When finalizing PDPM, CMS also finalized that this new case-mix classification model would be implemented in a budget neutral manner, meaning that the transition to PDPM from the prior case-mix classification model, the Resource Utilization Group, Version 4 (RUG-IV), would not result in an increase or decrease in aggregate SNF spending. Since PDPM implementation, CMS' data analysis has shown an unintended increase in payments of approximately 5%, or $1.7 billion in FY 2020. As with past case-mix classification model transitions, CMS has conducted the data analysis to recalibrate the parity adjustment in order to achieve budget neutrality under PDPM. However, CMS also acknowledges that the COVID-19 PHE could have affected the data used to perform these analyses. CMS, therefore, did not propose recalibrating the PDPM parity adjustment in the FY 2022 SNF PPS proposed rule, but

instead solicited comments from stakeholders on the parity adjustment and a potential methodology to account for the effects of the COVID-19 PHE without compromising the accuracy of the adjustment. After considering the stakeholder feedback received in the FY 2022 SNF PPS rulemaking cycle to better account for the effects of the COVID-19 PHE in this proposed rule, CMS is proposing a recalibration of the PDPM parity adjustment using a combined methodology of a subset population that excludes those patients whose stays utilized a COVID-19 PHE-related waiver or who were diagnosed with COVID-19, and control period data using months with low COVID-19 prevalence from FY 2020 and FY 2021. As a result of this methodology, CMS is proposing a parity adjustment that would reduce SNF spending by 4.6%, or $1.7 billion, in FY 2023.

Proposed Permanent Cap on Wage Index Decreases

In order to mitigate instability in SNF PPS payments due to significant wage index decreases that may affect providers in any given year, CMS is proposing a permanent 5% cap on annual wage index decreases to smooth year-to-year changes in providers' wage index payments.

Proposed Changes in PDPM ICD-10 Code Mappings

PDPM utilizes International Classification of Diseases, Version 10 (ICD-10) codes in several ways, including to assign patients to clinical categories used for categorization under several PDPM components, specifically the Physical Therapy, Occupational Therapy, Speech Language Pathology and Non-Therapy Ancillary components. In response to stakeholder feedback and to improve consistency between the ICD-10 code mappings and current ICD-10 coding guidelines, CMS is proposing several changes to the PDPM ICD-10 code mappings. The ICD-10 code mappings and lists used under PDPM are available on the PDPM Website at https://www.cms.gov/Medicare/MedicareFee-for-Service-Payment/SNFPPS/PDPM.

Request for Information: Coding Infection Isolation

Under the SNF PPS, various patient characteristics are used to classify patients in Medicare-covered SNF stays into payment groups. One of these characteristics is if the patient is being isolated alone in a separate room due to an active infection. In order to be classified for infection isolation, a SNF resident must meet specific clinical criteria. In response to stakeholder feedback requesting to change some of the criteria to code infection isolation, CMS is soliciting comments on the degree to which the current criteria for coding infection isolation should be expanded to allow cohorted patients to be included and to ensure that the payment rate impact of infection isolation is consistent with the increase in relative costliness associated with these patients.

Request for Information: Revising Staffing Requirements for Long-Term Care (LTC) Facilities

In the proposed rule, CMS is seeking input on the effects of direct care staffing (nurses, aides, and other professionals) requirements to improve the LTC requirements for participation and promote thoughtful, informed staffing plans and decisions within facilities to meet residents' needs, including maintaining or improving resident function and quality

of life. Specifically, we are seeking input on establishing minimum staffing requirements for LTC facilities.

Skilled Nursing Facility Quality Reporting Program (SNF QRP) update

The SNF QRP is a pay-for-reporting program. SNFs that do not meet reporting requirements are subject to a two-percentage point (2.0) reduction in their annual update. CMS is proposing to adopt one new measure for the SNF QRP. CMS is also proposing to revise the compliance date for certain SNF QRP requirements. In addition, CMS is proposing to revise regulation text that pertains to data submission requirements for the SNF QRP. Finally, CMS is seeking comment on three Requests for Information (RFI).

Influenza Vaccination Coverage Among Healthcare Personnel Measure

CMS is proposing the adoption of a new process measure, the Influenza Vaccination Coverage among Healthcare Personnel (HCP) measure for the SNF QRP, beginning with the FY 2025 SNF QRP. Residents of long-term care facilities, who are often of older age, have greater susceptibility for acquiring influenza due to general frailty and comorbidities, close contact with other residents, interactions with visitors, and exposure to staff who rotate between multiple facilities. Therefore, monitoring and reporting influenza vaccination rates among HCP is important as HCP are at risk for acquiring influenza from residents and exposing influenza to residents. Given the fact that influenza vaccination coverage among HCP is typically lower in long-term care settings, such as SNFs, when compared to other care settings, we believe the proposed measure has the potential to increase influenza vaccination coverage in SNFs, promote patient safety, and increase the transparency of quality of care in the SNF setting.

The proposed Influenza Vaccination Coverage among HCP measure is a National Quality Forum-endorsed process measure (NQF#0431) developed by the Centers for Disease Control and Prevention (CDC) to track influenza vaccination coverage among HCP in facilities such as SNFs. The measure reports on the percentage of HCP who receive an influenza vaccine any time from when it first became available through March 31 of the following year. If adopted as proposed, SNFs will submit the measure data through the CDC National Healthcare Safety Network with an initial data submission period from October 1, 2022, through March 31, 2023.

Revised Compliance Date for Certain SNF QRP Requirements

CMS is proposing to revise the compliance date for certain SNF QRP reporting requirements including the Transfer of Health Information measures and certain standardized patient assessment data elements (including race, ethnicity, preferred language, health literacy, social isolation) to October 1, 2023. The interim final rule with comment period that appeared in the May 8, 2020, Federal Register (IFC-2) (85 FR 27550) delayed the compliance date for these items from October 1, 2020, to October 1st of the year that is at least 2 full fiscal years after the end of the COVID-19 Public Health Emergency (PHE). We also delayed the adoption of the updated version of the Minimum Data Set (MDS), which is

the assessment instrument providers would have used to collect the data. This delay was

intended to provide relief to SNFs during the COVID-19 PHE. However, based upon the advancement of information available about COVID-19 vaccination, treatments available, and the importance of the data in the SNF QRP, we believe that it would be appropriate to modify the compliance date finalized in IFC-2. It is also important to align the collection of this data with the Inpatient Rehabilitation Facilities and Long-Term Care Hospitals which will begin collecting this information on October 1, 2022, and Home Health Agencies which will begin collecting this information on January 1, 2023.

Proposed Revisions to the Regulation Text (§ 413.360)

CMS is proposing to make certain revisions to regulation text to include a new paragraph to reflect all the data completion thresholds required for SNFs to meet the compliance threshold for the annual payment update.

SNF QRP Quality Measures under Consideration for Future Years: RFI

CMS is seeking input on two future measure concepts including: (1) a functional outcome measure that includes both self-care and mobility items, and (2) a COVID-19 Vaccination Coverage measure that would assess whether SNF residents were up to date on their COVID-19 vaccine.

Overarching Principles for Measuring Equity and Healthcare Quality Disparities across CMS Quality Programs: RFI

CMS is committed to achieving equity in health care outcomes for our beneficiaries. In this RFI, we provide an update on the equity work that is occurring across CMS. Included are: CMS' plans to expand our quality reporting programs to allow us to provide more actionable, comprehensive information on health care disparities; measuring health care disparities through quality measurement and reporting these results to providers; and providing an update on our methods and research around measure development and disparity reporting.

We believe that a focused health equity measure would provide specific equity data that will help providers develop innovative and targeted interventions for impacted groups and would additionally provide transparency for beneficiaries. We also believe that by leveraging measures to give providers access to disparity information, they would be able to use this data to make informed decisions about their quality improvement initiatives. In this RFI, we are requesting feedback from stakeholders on the development and inclusion of health equity quality measures for the SNF QRP.

Inclusion of the CoreQ: Short Stay Discharge Measure in a Future SNF QRP Program Year: RFI

Ensuring that patients and families are engaged as partners in their care can be an effective way to measure the quality of patient care. In this year's proposed rule, we are requesting stakeholder feedback on the inclusion of the CoreQ: Short Stay Discharge

measure in the SNF QRP in future program years, including whether there are any

challenges or impacts we should consider for a potential future proposal. The CoreQ survey instrument is used to assess the level of satisfaction among SNF patients.

Skilled Nursing Facility Value-Based Purchasing (SNF VBP) Program

The SNF VBP Program rewards SNFs with incentive payments based on the quality of care they provide to Medicare beneficiaries, as measured by performance on a single measure of hospital readmissions. All SNFs paid under Medicare's SNF PPS are included in the SNF VBP Program.

Section 111 of Division CC of the Consolidated Appropriations Act, 2021 (CAA) authorizes the Secretary to apply up to 9 additional measures determined appropriate to the SNF VBP Program for payments for services furnished on or after October 1, 2023.

Proposed Measure Suppression and Special Scoring Policies for the SNF VBP Program

CMS proposes to suppress the Skilled Nursing Facility 30-Day All-Cause Readmission Measure (SNFRM) for the FY 2023 SNF VBP Program Year because circumstances caused by the PHE for COVID-19 have significantly affected the measure and the ability to make fair, national comparisons of SNFs' performance scores. As part of a proposed special scoring policy for FY 2023, CMS proposes to assign a performance score of zero to all participating SNFs, irrespective of how they perform using the previously finalized scoring methodology, to mitigate the effect that PHE-impacted measure results would otherwise have on SNF performance scores and incentive payment multipliers. CMS proposes to reduce the otherwise applicable federal per diem rate for each SNF by 2% and award SNFs 60% of that withhold, resulting in a 1.2% payback to those SNFs. Finally, we are also proposing that those SNFs that do not meet the proposed case minimum for FY 2023 will be excluded from the Program for FY 2023.

The proposed special scoring policy would maintain compliance with the previously finalized payback percentage policy (per statute, the SNF VBP Program must withhold 2% of SNF Medicare Part A FFS payment and redistribute 50-70% of the withhold to SNFs in the form of incentive payments). CMS finalized a 60% payback percentage in prior rulemaking.

SNF VBP Program Expansion

Section 111 of Division CC of the CAA allows the Secretary to expand the SNF VBP Program beyond its current use of a single, all-cause hospital readmission measure and apply up to an additional 9 measures with respect to payments beginning in FY 2023, which may include measures of functional status, patient safety, care coordination, or patient experience.

Using this authority granted by the CAA, CMS proposes the adoption of 3 new measures into the SNF VBP Program– 2 claims-based measures and 1 payroll-based journal staffing measure. The measure proposals include the adoption of 3 new measures beginning with FY 2026 and FY 2027 SNF VBP Program expansion years:

FY 2026 and FY 2027 SNF VBP Program expansion years:

- FY 2026 Program year: Adoption of the Skilled Nursing Facility Healthcare Associated Infections Requiring Hospitalization (SNF HAI) and Total Nursing Hours per Resident Day measures. SNF HAI is an outcome measure that assesses SNF performance on infection prevention and management. The Total Nursing Hours per Resident Day is a structural measure that uses auditable electronic data to calculate total nursing hours per resident day.
- FY 2027 Program year: Adoption of the Discharge to Community – Post Acute Care Measure for SNFs (DTC). The DTC is an outcome measure that assesses the rate of successful discharges to community from a SNF setting.

Nursing Home Staff Turnover Measure

Through an RFI, CMS is seeking stakeholder input on implementation of a Nursing Home Staff Turnover measure in the SNF VBP Program. This measure consists of the percent of total nurse staff that have left the SNF over the last year. Developed using data from CMS' Payroll-Based Journal (PBJ) System, the Nursing Home Staff Turnover measure includes annual turnover for total nurses (RNs, licensed practical/licensed vocational nurses (LPNs), and nurse aides).

Payment RFIs in the FY 2023 Proposed Rule

CMS is seeking stakeholder input via RFI on the following items:

1. SNF VBP Exchange Function: Seeking input on whether to propose either a new functional form or a modified logistic exchange function since we are recommending the adoption of new quality measures, as well as numerous updates to the Program's scoring methodology. The exchange function converts performance scores into value-based incentive payments, and each one determines whether payments increase or decrease for the highest or lowest performers, respectively.
2. Validation: Seeking input on the design of validation procedures, as well as a potential implementation timeline.
3. Health Equity: Seeking input on whether to incorporate adjustments related to health equity and how to best tie health equity outcomes to SNF payments. Health equity adjustments could occur at the measure level, such as stratification or including measures of social determinants of health, or they could be incorporated at the scoring and incentive payment level, such as weighting and points adjustments.

Proposed Polices to Accommodate the Additional Proposed Measures

CMS proposes to adjust the SNF VBP scoring methodology to accommodate the additional measures by:

- Updating the SNF VBP Program measure-level scoring normalization policy beginning

with the FY 2026 program year. CMS proposes updating the achievement and improvement scoring formulas such that SNFs could earn up to 10 points per measure for achievement and up to 9 points per measure for improvement to accomplish our goal of continuing to award SNF performance scores that range between 0 and 100 points. Under this proposal, all measures in the expanded SNF VBP Program would be weighted equally.

- Adopting a case minimum policy beginning with the FY 2023 SNF VBP program year that replaces the Low-Volume Adjustment policy for the SNFRM. CMS proposes to adopt a minimum of 25 eligible stays during the applicable 1-year performance period for the SNFRM beginning with the FY 2023 program year, and beginning with the FY 2026 Program Year, a minimum of 25 residents for the SNF HAI measure and a minimum of 25 residents, on average, across all available quarters during the applicable 1-year performance period for the Total Staff Nursing measure. Beginning with the FY 2027 Program year, CMS proposes to adopt a minimum of 25 eligible stays during the applicable 2-year performance period for the DTC measure.
- Updating the scoring policy for SNFs without sufficient baseline period data beginning with the FY 2026 SNF VBP program year. CMS proposes to update this policy to accommodate additional quality measures, such that if a SNF does not meet the case minimum threshold for a given measure during the applicable baseline period, the SNF would not receive an improvement score for that measure.
- Adopting a measure minimum policy beginning with the FY 2026 SNF VBP program year. CMS proposes requiring a 2-measure minimum for a SNF to receive a SNF performance score and, for the FY 2027 Program, a 3-measure minimum for the SNF to receive a SNF performance score.
- Remove the Low-Volume Adjustment (LVA) Policy from the SNF VBP Program beginning with the FY 2023 Program Year. CMS proposes that the LVA policy be removed from the Program's scoring methodology beginning with the FY 2023 program year. We note that the case minimum and measure minimum policies that we are recommending would replace, and achieve the same objective, as the LVA policy.

Accountability of Quality Care and Patient Safety in Long Term Care Facilities

SNFs and nursing facilities (hereafter referred to as long-term care facilities [LTCFs]) are accountable to provide high quality care and ensure patient safety, including protecting the well-being of clinical staff who provide care in these congregated settings. LTCFs must continue to adhere to evidence-based infection control practices and CMS' Requirements for Participation for LTCFs at 42 CFR 483 Subpart B. Compliance with CMS' requirements is critical as nursing home residents are more susceptible to severe infection from COVID-19 due to their age, underlying health conditions, and congregated setting. CMS continues to work with its federal partners such as the CDC in supporting the nation's COVID-19 response across LTCFs, including providing surveillance data to strengthen local and national surveillance, monitor trends in infection rates, and provide actionable goals toward infection prevention efforts. Finally, CMS and its partners, including state governments, have helped LTCFs secure personal protective equipment and expanded access to COVID-19 testing supplies and vaccines, among other initiatives to ensure patient safety and improve quality of care across more than 15,000 LTCFs.

For more information:

The proposed rule will be displayed April 11, 2022, at the *Federal Register's* Public Inspection Desk under "Special Filings," at https://www.federalregister.gov/public-inspection/2022-07906/medicare-program-prospective-payment-system-and-consolidated-billing-for-skilled-nursing-facilities. Additional information is available at: https://www.cms.gov/newsroom/press-releases/hhs-takes-actions-promote-safety-and-quality-nursing-homes

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